

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of JESUS MALICK MAYS and  
GENELL SHAWTEL MAYS, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ARCHIE MAYS, JR.,

Respondent-Appellant.

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UNPUBLISHED

May 15, 2008

No. 282791

Saginaw Circuit Court

Family Division

LC No. 06-030625-NA

Before: Donofrio, P.J., and Sawyer and Murphy, JJ.

MEMORANDUM.

Respondent appeals as of right from a circuit court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (h). We affirm.

Respondent does not challenge the trial court's determination that the statutory grounds for termination were established by clear and convincing evidence. Rather, he contends that the trial court erred in terminating his parental rights instead of placing the children with his stepsister. We disagree.

Once a statutory ground for termination has been established, the court must order termination unless the evidence clearly shows that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000). Thus, the court may continue temporary wardship and allow a child to be placed with a proper custodian such as a relative based on the child's best interests. *In re McIntyre*, 192 Mich App 47, 53; 480 NW2d 293 (1991). However, nothing in the law directs the court to refrain from ordering termination when the child could alternatively be placed with relatives, *In re Futch*, 144 Mich App 163, 170; 375 NW2d 375 (1984), and if it is within the best interests of the child to do so, the court may terminate parental rights instead of placing the child with relatives. *In re IEM*, 233 Mich App 438, 453; 592 NW2d 751 (1999); *McIntyre*, *supra* at 52. The trial court's best interests decision is reviewed for clear error. *In re Trejo*, *supra* at 356-357.

Respondent visited the children during the first five months of their lives, but any bond they may have developed with him during that time had undoubtedly become quite attenuated after respondent disappeared from their lives over the next six months due to his incarceration.

Respondent was not due to be released from prison for at least three years and possibly much longer. Although respondent wanted his stepsister to assume custody in his absence, he had not yet discussed the matter with her and there was no evidence that she was a suitable custodian or was willing to assume responsibility for them. The evidence did not clearly show that termination of respondent's parental rights was not in the children's best interests. Therefore, the trial court did not err in terminating respondent's parental rights.

Affirmed.

/s/ Pat M. Donofrio

/s/ David H. Sawyer

/s/ William B. Murphy